

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>THOMAS A. SCHENCK,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>JEFFERSON COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 51359</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on January 6, 2010, Karen E. Hart and Debra A. Baumbach presiding. Petitioner appeared pro se. Respondent was represented by Martin E. McKinney, Esq. Petitioner is protesting the 2008 actual value of the subject property.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**27392 Ridge Trail, Conifer, Colorado  
(Jefferson County Schedule No. 086278)**

The subject is a wood sided, average quality, ranch style, single family dwelling built in 1985. There are 1,325 square feet of living area on the main floor with two bedrooms and two bathrooms. There is a walk-out basement area consisting of 1,275 square feet which is unfinished. There is an attached two car garage. The residence is situated on a 3.816 acre parcel with a partial view.

Petitioner presented an indicated value of \$178,212.00 for the subject property.

Petitioner presented four comparable sales ranging in sales price from \$219,400.00 to \$530,000.00 and in size from 1,650 to 2,446 square feet. After adjustments the sales ranged from \$155,600.00 to \$351,200.00. Petitioner presented the comparable sales at the Board of Equalization hearing; all adjustments to the comparable sales were calculated by Respondent.

Mr. Schenck testified the comparable sales he used are located within the subject's subdivision and give a better indication of value ranges. In arriving at a value, Petitioner averaged the comparable sales to derive a price per square foot and applied it to the square footage of the subject property.

Petitioner testified the subject is a wood frame ranch style home with an unfinished walk-out basement. There is an attached two-car garage and electric heat. The subject is located at the end of a cul-de-sac and access to the property is from a privately maintained road. The Elk Creek Fire Protection District performed an onsite inspection of the subject's driveway and found the slope to be excessive for access standards. Additionally, the inspection found offsite access in several areas did not meet current standards and power lines appeared to be too low for apparatus to access the road.

Petitioner contends that Respondent used sales that are located in a superior location and that insufficient adjustments were made for subject's adverse access, location, and topography.

Petitioner is requesting a 2008 actual value of \$178,212.00 for the subject property but is willing to accept a value of \$267,650.00.

Respondent presented an indicated value of \$332,000.00 for the subject property based on the market approach.

Respondent presented four comparable sales ranging in sales price from \$250,000.00 to \$365,000.00 and in size from 1,154 to 1,650 square feet. After adjustments the sales ranged from \$296,700.00 to \$350,800.00.

Respondent's witness Ms. Cary Lindeman, Certified Residential Appraiser with Jefferson County Assessor's office, testified the sales selected for the analysis were all considered similar in size, style, quality, and market appeal. The market area was expanded due to the lack of suitable sales within the subject's direct subdivision. Adjustments were made for all differences in physical characteristics and any adverse affects were accounted for.

Respondent testified adjustments were made for all differences including adjustments for contributory factors to include the influence of access, traffic, view, and topography. An adjustment was also made for electric heating system. The subject has electric heat and is considered to have a negative effect on market perception.

Ms. Lindeman testified that the sales used by Petitioner were not considered to be suitable sales for comparison. Sale 1 was a foreclosure sale and there were not enough foreclosure sales within the market area to consider this sale in the analysis. Sale 2 was excluded because it was between family members and was not considered an arm's-length transaction. Sale 3 had a building permit pulled right after the date of sale and therefore was not considered. Respondent did not consider Petitioner's methodology of averaging the sales price to derive a value estimate to be appropriate appraisal methodology. However, after performing a site specific appraisal Respondent is recommending a reduction from the assigned value of \$350,000.00 to \$332,000.00.

Respondent assigned an actual value of \$350,000.00 to the subject property for tax year 2008 but is recommending a reduction of \$332,000.00.

Sufficient probative evidence and testimony was presented to prove that the subject property was incorrectly valued for tax year 2008; however Petitioner did not convince the Board that Respondent's recommended value reduction was incorrect.

The Board relied on the comparable sales presented by Respondent. The Board was convinced by Respondent's analysis of Petitioner's comparable sales; therefore the Board gave Petitioner's comparable sales little weight. The Board gave little weight to Petitioner's methodology of averaging the adjusted sales prices to arrive at a value, it is not considered to be an appropriate appraisal practice.

After careful consideration of the testimony the Board concluded that Respondent accounted for all differences affecting the value of the subject. Respondent's adjustments were reasonable and appropriate appraisal methodology was used in the analysis. Respondent's recommended value accurately reflects market perception. Further, Petitioner did not present sufficient evidence or testimony to prove Respondent's adjustments for the subject's location, topography, and access were insufficient.

### **ORDER:**

Respondent is ordered to reduce the 2008 actual value of the subject property to \$332,000.00.

The Jefferson County Assessor is directed to change his/her records accordingly.

### **APPEAL:**

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

**DATED and MAILED** this 28th day of January 2010.

**BOARD OF ASSESSMENT APPEALS**

*Karen E Hart*

Karen E. Hart

*Debra A Baumbach*

Debra Baumbach

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

*Heather Flannery*

Heather Flannery

